Senate Committee On

REGULATED INDUSTRIES

Alex Diaz de la Portilla, Chair
Alfred "Al" Lawson, Jr., Vice Chair

Meeting Packet

Monday, April 19, 2004
9:15 AM – 11:15 AM
110 SOB

(Please bring this packet to the committee meeting. Duplicate materials will not be available.)

E X P A N D E D A G E N D A

COMMITTEE ON REGULATED INDUSTRIES

Senator Diaz de la Portilla, CHAIR
Senator Lawson, VICE-CHAIR

DATE: Monday, April 19, 2004
TIME: 9:15 a.m. -- 11:15 a.m.
PLACE: Room 110 (EL), Senate Office Building

(MEMBERS: Senators Aronberg, Bennett, Campbell, Geller, Haridopolos, Hill, Pruitt, Saunders, Sebesta and Villalobos)

TAB	BILL NO. AND INTRODUCER	BILL DESCRIPTION AND SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/CS/SB 2474 Criminal Justice / Haridopolos et al (Compare H 1531, CS/S 1940, S 2636) IF RECEIVED	Legal Gambling; redefines term "full schedule of live racing or games"; authorizes Pari-mutuel Wagering Div. to consider application for permit within certain distance fro m existing pari-mutuel facility with consent of all active permitholders within county in which new permit is to be located; recognizes that pari-mutuel permitholders are highly regulated & taxed for public welfare & safety, etc. Amends Chs. 550, 849. RI 03/17/04 CS CP 03/29/04 FAVORABLE CJ 03/31/04 Temporarily postponed CJ 04/13/04 CS/CS RI 04/19/04 FT	
2	SB 2060 Smith (Similar H 1299)	Non-quota Alcoholic Beverage License; authorizes issuance of said license to certain sporting & recreational lodges; provides serving hours. Amends 565.02. RI 04/19/04 FT 04/20/04 If received AGG AP RC	
3	SB 2666 Aronberg (Similar H 1527)	Landlords & Tenants; provides for tenant liability under specific duration rental agreement for liquidated damages under certain circumstances; provides criteria for notice by landlord. Amends 83.575. JU 04/12/04 FAVORABLE WITH AMEND 1 RI 04/19/04	

E X P A N D E D A G E N D A

COMMITTEE ON REGULATED INDUSTRIES

DATE: Monday, April 19, 2004 **TIME: 9:15 a.m. -- 11:15 a.m.**

TAB	BILL NO. AND INTRODUCER	BILL DESCRIPTION AND SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	CS/CS/SB 0544 Governmental Oversight and Productivity / Bennett et al (Similar H 0487)	Local Government Prompt Payment Act; provides short title; revises provisions re timely payment for purchases of construction services; revises deadlines for payment of subcontractors, sub-subcontractors, materialmen, & suppliers on construction contracts for public projects; provides for timely payment for purchases of construction services by public entity; prohibits contract provision that makes payment contingent upon certain conditions, etc. Amends Chs. 218, 255, 725.09, 95.11. CP 02/02/04 Not considered CP 02/16/04 Temporarily postponed CP 03/01/04 CS GO 03/17/04 CS/CS JU 04/12/04 FAVORABLE WITH AMEND 1 RI 04/19/04	

1

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/SB 2474

SPONSOR: Criminal Justice and Regulated Industries Committees and Senator Haridopolos

SUBJECT: Gambling

DATE: April 15, 2004 REVISED: _____ _____ _____ _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sumner	Imhof	RI	Fav/CS
2.	Herrin	Yeatman	CP	Favorable
3.	Dugger	Cannon	CJ	Fav/CS
4.	Sumner	Imhof	RI	
5.			FT	
6.				

I. Summary:

The bill amends the pari-mutuel wagering law, ch. 550, F.S., to include, in part, the following:

- reduces the number of live games required for jai alai to 40 days;
- creates a 100-mile restriction on the location of new quarter horse tracks near existing pari-mutuel facilities;
- restructures taxation for pari-mutuels;
- creates a minimum level of taxation for all pari-mutuels of $350,000;
- requires payment of Florida owners' awards for up to three years by thoroughbred permitholders after the bill becomes law;
- removes simulcasting restrictions which exist in South Florida and allows for year-round simulcasting import at Florida's thoroughbred tracks;
- creates a number of purse incentives for Florida Horsemen from the new simulcasting provisions;
- includes restrictions regarding adult amusement arcades;
- includes language to protect the Hialeah Park permit and excuses discipline for violation of intertrack wagering provisions by Gulfstream Park; and
- ties the conversion of the quarter horse permit held by Ocala Breeders Sales to a thoroughbred permit in Ocala, provided a capital investment is made of more than $50 million on a new track. It further ties the elimination of the current 7 p.m. curfew on live thoroughbred racing to a new investment of more than $100 million by a permitholder on their facility.

The bill amends s. 849.161, F.S. by providing that:

- Amusement games or machines played at arcade amusement centers may be games played *solely* by application of skill.
- Slot machines and games that have an element of chance or unpredictable outcome are not included in the games permitted at arcade amusement centers and truck stops.
- Points or coupons received from playing the amusement games may not be exchanged for cash, alcoholic beverages, or tobacco products.
- All points or coupons received by a player of an amusement game or machine may be exchanged only at the same business location where the game or machine operated by the player is located. No points or coupons received by a player may be exchanged for any gift certificate, mail order certificate, or similar conveyance which is redeemable at another business location or is deliverable from a location other than where the arcade is located.
- It creates provisions for application of a license for an arcade amusement center.
- Local governments may establish or amend the zoning map designation of a parcel or parcels of land or change the actual list of permitted, conditional, or prohibited uses within a zoning category and, with respect to arcade amusement centers, any local government may exercise such power as provided by law.
- The legislative and governing body of a county or municipality shall have the power and authority to limit the number of hours of operation of arcade amusement centers and may also limit the number of machines allowed in such centers.
- Games or machines that may be construed as a gambling device under state law are prohibited at arcade amusement centers.
- Provides for an exception for amusement games or machines located at truck stops.

The bill provides an exemption to the prohibition on solicitation of participants by means of advertising for penny-ante games by allowing the posting of a notice at the dwelling or distributing notice to residents or member of the entity owning the dwelling.

This bill substantially amends the following sections of the Florida Statutes: 550.002; 550.01215; 550.054; 550.0951; 550.09514; 550.2625; 550.26352; 550.2704; 550.3551; 550.475; 550.615; 550.6305; 849.161; and 849.085.

This bill creates sections 550.09516 and 849.1615.

This bill repeals sections 550.0745; 550.09511; 550.09512; 550.09515; 550.1625; 550.3355; 550.334; 550.375; 550.5251; and 550.71.

This bill creates unnumbered sections of the Florida Statutes.

II. Present Situation:

Definition of "Full schedule of live racing or games."

The definition of "full schedule of live racing or games" in s. 550.002(11), F.S., for a greyhound or jai alai permitholders means that the permitholder conducts a combination of at least 100 live evening or matinee performances during the preceding year.

License application; periods of operation; bond, conversion of permit.

Section 550.01215, F.S., requires each permitholder to file a written license application between December 15 and January 4 to conduct performances during the next state fiscal year. The application must specify the number, dates, and starting times of all performances the permitholder intends to conduct and which will be conducted as charity or scholarship performances.[1]

This provision also provides exceptions for thoroughbred racing, consequences for failure to operate all performances as specified on its license, and for the administration of vacated, abandoned, or unused licenses, and converted jai alai permits.

The Division of Pari-mutuel Wagering (division) in the Department of Business and Professional Regulation fixes the time, place, and number of days during which a pari-mutuel facility may conduct races or games.[2] However, s. 550.5251, F.S., provides for a "Florida Thoroughbred Racing Season" for thoroughbred permitholders who conducted races between January 1, 1987 and January 1, 1988. For these permitholders, the racing season is from June 1 of any year through May 31 of the following year.

Application for permit to conduct pari-mutuel wagering.

Section 550.054, F.S., provides that any qualified person may apply to the division for a permit to conduct pari-mutuel wagering under ch. 550, F.S. Some of the conditions for obtaining a permit are as follows:

- the county in which an applicant proposes to conduct pari-mutuel wagering must ratify the conduct of such activity;
- an application for permit, except quarterhorse permits, may be considered only if the proposed location is at least 100 miles from an existing pari-mutuel facility which conducts horseraces, harness horse races, or greyhound racing, and for jai alai at least 50 miles;
- each applicant must provide names and addresses, and and/or equity holdings; financial statements and agreements must be provided;

[1] Section 550.054, F.S., requires that prior to this application process, the application for a permit to conduct pari-mutuel wagering must be filed with the division

[2] Section 550.01215(3), F.S.

- a business plan must be provided; and
- fingerprints of owners, directors, or others named in the application for permit must be provided.

Upon receipt of an application, the division would conduct an investigation into the matters contained in the application. For operation of a cardroom under ch. 849.086, F.S., a permit must have been issued to conduct pari-mutuel wagering subject to the conditions above. Additionally, cardroom permits are subject to county commission approval with relocation subject to referendum election.

Payment of daily license fee and taxes.

Section 550.0951, F.S. provides that all permitholders pay a daily license fee on each live or simulcast pari-mutuel event as follows:

- $100 for each horserace;
- $80 for each dograce; and
- $40 for each jai alai game.

Greyhound permitholders receive a tax exemption of $360,000 or $500,000 per permitholder per state fiscal year and also receive in the current fiscal year a tax credit equal to the number of live greyhound races conducted in the previous year times the daily license fee specified for each dograce.

If the permitholder cannot utilize the full amount of the exemption or the daily license fee credit, the permitholder may, after notifying the division in writing, elect once per state fiscal year to transfer the exemption or credit or any portion thereof to any greyhound permitholder that acts as a host track to such permitholder for the purpose of intertrack wagering.

An admission tax equal to 15 percent of the admission charge, or 10 cents, whichever is greater is imposed on each person attending a horse race, dograce, or jai alai game. An admission tax may not be imposed on any free passes or complimentary cards issued. A permitholder may issue tax free passes to its officers, official, and employees or other persons who work at the racetrack including accredited press representatives.

Each permitholder must pay tax on contributions to pari-mutuel pools (handle), on races or games conducted by the permitholder. The tax is imposed daily and is based on the total contributions to all pari-mutel pools conducted during the daily performance. If a permitholder conducts more than one performance daily, the tax is imposed on each performance separately.

The tax on handle for:

- Quarter horse racing is 1.0 percent of the handle;
- Dogracing is 5.5 percent of the handle; and
- Jai alai is 7.1 percent of the handle.

The tax on handle for intertrack wagering is 2.0 percent of the handle if the host track is a horse track, 3.3 percent if the host track is a harness track, 5.5 percent if the host track is a dog track, and 7.1 percent if the host track is a jai alai fronton. The tax on handle for intertrack wagering is 0.5 percent if the host track and the guest track are thoroughbred permitholders or if the guest track is located outside the market area of the host track and within the market area of a thoroughbred permitholder currently conducting a live race meet. The tax on handle for intertrack wagering on rebroadcasts of simulcast thoroughbred horseraces is 2.4 percent of the handle and 1.5 percent of the handle for intertrack wagering on rebroadcasts of simulcast harness horseraces. The tax is deposited into the Pari-mutuel Wagering Trust Fund.

The tax on handle for intertrack wagers accepted by any dog track located in an area of the state in which there are only three permitholders, all of which are greyhound permitholders, located in three contiguous counties, from any greyhound permitholder also located within such area or any dog track or jai alai fronton located as specified in s. 550.615 (6) or (9), F.S., on races or games received from the same class of permitholder located within the same market area is 3.9 percent if the host facility is a greyhound permitholder and, if the host facility is a jai alai permitholder, the rate shall be 6.1 percent except that it shall be 2.3 percent on handle at such time as the total tax on intertrack handle paid to the division by the permitholder during the current state fiscal year exceeds the total tax on intertrack handle paid to the division by the permitholder during the 1992-1993 state fiscal year.

Notwithstanding any other provision of ch. 550, F.S., in order to protect the Florida jai alai industry, effective July 1, 2000, a jai alai permitholder may not be taxed on live handle at a rate higher than 2 percent.

Effective October 1, 1996, each permitholder conducting jai alai performances shall pay a tax equal to the breaks. The "breaks" represents that portion of each pari-mutuel pool which is not redistributed to the contributors or withheld by the permitholder as commission.

The failure of any permitholder to make required payments may result in a civil penalty of up to $1,000 for each day the tax payment is not remitted. All penalties imposed and collected are to be deposited in the General Revenue Fund. If a permitholder fails to pay penalties imposed by order of the division, the division may suspend or revoke the license of the permitholder, cancel the permit of the permitholder, or deny issuance of any further license or permit to the permitholder.

In addition to the civil penalty, any willful or wanton failure by any permitholder to make payments of the daily license fee, admission tax, tax on handle, or breaks tax constitutes sufficient grounds for the division to suspend or revoke the license of the permitholder, to cancel the permit of the permitholder, or to deny issuance of any further license or permit to the permitholder.

Greyhound dogracing taxes; purse requirements.

Wagering on greyhound racing is subject to a tax on handle for live greyhound racing as specified in s. 550.0951(3), F.S. However, each permitholder shall pay no tax on handle until such time as this subsection has resulted in a tax savings per state fiscal year of $360,000.

Thereafter, each permitholder shall pay the tax as specified in s. 550.0951(3), F.S., on all handle for the remainder of the permitholder's current race meet, and the tax must be calculated and commence beginning the day after the biweekly period in which the permitholder reaches the maximum tax savings per state fiscal year provided in this section. For the three permitholders that conducted a full schedule of live racing in 1995, and are closest to another state that authorizes greyhound pari-mutuel wagering, the maximum tax savings per state fiscal year shall be $500,000. The provisions of this subsection relating to tax exemptions shall not apply to any charity or scholarship performances conducted pursuant to s. 550.0351, F.S.[3]

Horseracing; minimum purse requirement, Florida breeders' and owners' awards.

Each permitholder conducting a horserace meet is required to pay from the takeout withheld on pari-mutuel pools a sum for purses in accordance with the type of race performed.

A permitholder conducting a thoroughbred horse race meet under this chapter must pay from the takeout withheld a sum not less than 7.75 percent of all contributions to pari-mutuel pools conducted during the race meet as purses. In addition to the 7.75 percent minimum purse payment, permitholders conducting live thoroughbred performances shall be required to pay as additional purses .625 percent of live handle for performances conducted during the period beginning on January 3 and ending March 16; .225 percent for performances conducted during the period beginning March 17 and ending May 22; and .85 percent for performances conducted during the period beginning May 23 and ending January 2. Except that any thoroughbred permitholder whose total handle on live performances during the 1991-1992 state fiscal year was not greater than $34 million is not subject to this additional purse payment. A permitholder authorized to conduct thoroughbred racing may withhold from the handle an additional amount equal to 1 percent on exotic wagering for use as owners' awards, and may withhold from the handle an amount equal to 2 percent on exotic wagering for use as overnight purses. No permitholder may withhold in excess of 20 percent from the handle without withholding the amounts set forth in this subsection.

Simulcasting and Intertrack Wagering.

Section 550.002(32), F.S. defines simulcasting as:

> broadcasting events occurring live at an in-state location to an out-of-state location, or receiving at an in-state location events occurring live at an out-of-state location by the transmittal, retransmittal, reception, and rebroadcast of television or radio signals by wire, cable, satellite, microwave, or other electrical or electronic means for receiving or rebroadcasting the events.

Intertrack wagering is defined in s. 550.002(17), F.S., as:

> a particular form of pari-mutuel wagering in which wagers are accepted at a permitted, in-state track, fronton, or pari-mutuel facility on a race or game

[3] Section 550.09514, F.S.

transmitted from and performed live at, or simulcast signal rebroadcast from, another in-state pari-mutuel.

Simulcasting and intertrack wagering interactions occur at guest and host tracks. Host tracks transmit signals to a guest track and the guest track takes wagers on that signal. Host tracks are tracks or frontons that conduct a live or simulcast race or game that is the subject of an intertrack wager.[4] A guest track is a track or fronton receiving or accepting an intertrack wager.[5]

All costs of racing transmissions of the broadcasts are the guest track's responsibility, and all costs of the sending the broadcast are the host track's responsibility.[6]

All money wagered by patrons of the Florida track on simulcast races is computed as part of the total live handle at that track and is taxed at the track's live rate. The handle is the aggregate wagers that go to the pari-mutuel pool for pari-mutuel races and games.[7] Handle is generated when wagers are placed at an out-of state facility on a Florida race and are taxed in the state where the wager is taken.

Simulcasting may only be accepted between facilities with the same class of pari-mutuel wagering permit,[8] e.g., horseracing permitholders may only receive and broadcast signals form other horseracing permitholders. However, simulcasting also includes the rebroadcast of the signal to in-state permitholder and certain exceptions apply.[9] Simulcast signals must be made available to all permitholders eligible to conduct intertrack wagering under the provisions of ss. 550.615-550.6345, F.S.[10]

Broadcasts of horseraces both to and from this state must also comply with the provisions of the Interstate Horseracing Act of 1978 (IHA).[11] The IHA requires that the permitholder receive the consent of the host racing association, host racing commission, and off-track racing commission as a prerequisite to acceptance of a wager.

Section 550.615, F.S., creates specific limitations on the exchange of intertrack signals, including the following limitations:

- The track or fronton must be licensed and must have conducted a full schedule of live racing in the preceding year to receive broadcasts and accept wagers.[12]
- Host tracks may require a guest track within 25 miles of another permitholder to receive in any week at least 60 percent of the host track's live races that the host

[4] Section 550.002(16), F.S.
[5] Section 550.002(12), F.S.
[6] Section 550.615(10), F.S.
[7] Section 550.002(13), F.S.
[8] Section 550.3551, F.S.
[9] Section 550.615, F.S.
[10] Section 550.6305(9), F.S.
[11] 92 Stat. 1811, 15 U.S.C. ss. 3001 et seq.
[12] Section 550.615(2), F.S.

track is making available on the days that the guest track is operating live races or games.[13]

- A host track may also require, when the guest track is not operating live and is within 25 miles of another permitholder, that it accept 60 percent of the host track's live races that it is making available in that week.
- Permitholders may not attempt to restrain a permitholder from sending or receiving intertrack wagering broadcasts.
- Provisions of this subsection are applicable to Dade, Broward, Pinellas, Hillsborough, Duval, Volusia, Clay, and Seminole Counties.

- Guest tracks within the market area (a market area is defined as an area within 25 miles of a permitholder's track or fronton[14]) of the operating permitholder must receive consent from the host track to receive the same class signal.[15]
- Permitholders within the market area of the host track must have the consent of the host track to take an intertrack wager. For example, Tampa Greyhound Track (Associated Outdoor Club, Inc.) could not accept wagers on races from Tampa Bay Downs, Inc., (TBD) without TBD's permission.[16]
- When there are three or more horserace permitholders within 25 miles of each other (this is currently applicable to Dade and Broward Counties) a greyhound or jai alai permitholder may accept intertrack wagers on races or games conducted live by a permitholder of the same class or any harness permitholder located within such area.[17]
  - Any harness permitholder may accept wagers on games conducted live by any jai alai permitholder located within its market area and from a jai alai permitholder located within the area when no jai alai permitholder located within its market area is conducting live performances.
  - Greyhound or jai alai permitholders may receive broadcasts of, and accept wagers on, any permitholder as long as a permitholder, other than the host track, is not operating a contemporaneous live performance within the market area.

- In any county of the state where there are only two pari-mutuel permitholders, a permitholder is required to receive the written consent of the other permitholder if it wishes to conduct intertrack wagering and is not conducting live races or games. If neither permitholder is conducting live races or games, wagers may be accepted on horseraces, games, or both. [18] This is applicable to Volusia and Palm Beach counties, however, the jai alai permits are not active.
- In any three contiguous counties where there are only three greyhound permitholders, a permitholder who leases a facility of another permitholder to conduct its live race meet may conduct intertrack wagering throughout the year,

[13] Section 550.615(3), F.S.
[14] Section 550.002(13), F.S.
[15] Section 550.615(4), F.S.
[16] Section 550.615(5), F.S.
[17] Section 550.615(6), F.S.
[18] Section 550.615(7), F.S.

including the time the live meet is being conducted at the leased facility. For example, in North Florida, St. Johns Greyhound (a.k.a. Bayard Raceways), located in St. Johns County, does not run live races but leases its meet out to the Orange Park Kennel Club, Inc., in Clay County. By doing so, Bayard Raceways is able to receive intertrack wagering at its facility.[19]

- In any two contiguous counties where there are four active permitholders consisting of one for thoroughbred, two for greyhound, and one for jai alai, no intertrack wager may be accepted on the same class of live races or games of any permitholder without the written consent of such operating permitholders conducting the same class of live races or games if the guest track is within the market area of such operating permitholder. This provision originally applied to Pinellas and Hillsborough counties. However, the fronton in Tampa (Florida Gaming Centers) currently has an inactive permit.[20] However, the requirement in s. 550.615(4), F.S., for the written consent remains applicable.

Amusement Arcades

Arcade amusement centers having coin-operated amusement games or machines are exempted from the prohibitions on gambling under ch. 849, F.S., as long as the games are games of skill.[21] An arcade amusement center as used in s. 849.161, F.S. means a place of business having at least 50 coin-operated amusement games or machines on premises which are operated for the entertainment of the general public and tourists as a bona fide amusement facility.[22] The person playing or operating the game or machine is entitled to receive points or coupons which may be exchanged for merchandise only. Merchandise does not include cash and alcoholic beverages. The cost value of the merchandise or prize awarded in exchange for such points or coupons may not exceed 75 cents on any game played.[23]

Many adult arcade establishments have opened around the state. These establishments have machines resemble the traditional slot machines, but allow the players to stop the circling slots at a certain time and win. The players win gift certificates that can be redeemed at local stores and supermarkets. In many cases the certificates can be redeemed for both merchandise and cash.[24]

In November 2003, law enforcement officials closed eight adult arcade establishments in Volusia and St. Johns counties and confiscated 400 machines as gambling devices.[25] The defendants in that case accepted a plea agreement to lesser charges after the circuit judge had ruled that the machines were games of chance, the skill level needed was "minimal" and other violations of ch. 849, F.S.[26] Law enforcement agencies have closed down adult arcades in Pinellas County,

[19] Section 550.615(8), F.S.
[20] Section 550.615(9), F.S.
[21] Coin-operated games of chance (also known as slot machines) are not exempted. *See* s. 849.16, F.S.
[22] Section 849.161(2), F.S.
[23] Section 849.161(1)(a) 1., F.S.
[24] Brief of Appellant, *State v. Cyphers,* No. 2D03-1272 (Fla. 2d DCA).
[25] Cindy F. Crawford, November 8, 2003, "Officials Swoop In, Close Adult Gaming Arcades, 400 Machines Carted Away for Inspection," *Daytona Beach News-Journal*, 1A.
[26] Cindy F. Crawford, January 17, 2004, "Plea Deal Keeps Casino Arcades Shuttered for Now," *Daytona Beach News-Journal,* 1A. *State of Florida v. Michel Delorne*, Case No. 2003-35783CFAES, Seventh Judicial Circuit.

Hillsborough County, Panama City, and Sarasota.[27] In Sarasota, the Circuit Court dismissed similar charges and held ss. 849.01 and 849.15, F.S., unconstitutionally vague when read in conjunction with s. 849.161(1)(a)1., F.S.[28]Municipalities have either placed moratoriums on occupational licenses for adult arcades[29] or provided zoning restrictions on where adult arcades can be located.[30]

Also excluded from this exemption are those coin operated amusement games or devices designed and manufactured only for amusement purposes which by application of skill entitle the player to replay the game or device at no additional cost, if the game or device:

- can accumulate and react to no more than 15 free replays;
- can be discharged of accumulated free replays only by reactivating the game or device for one additional play for such accumulated free replay; and
- can make no permanent record, directly or indirectly, of free replays; and is not classified by the United States as a gambling device in 24 U.S.C. s. 1171, which requires identification of each device by permanently affixing seriatim numbering and name, trade name, and date of manufacture under s. 1173, and registration with the United States Attorney General, unless excluded from applicability of the chapter under s. 1178.

Penny-ante games

"Penny-ante game" [31] means a game or series of games of poker, pinochle, bridge, rummy, canasta, hearts, dominoes, or mah-jongg in which the winnings of any player in a single round, hand, or game do not exceed $10 in value. The game must be conducted in a dwelling and a person may not receive any consideration or commission for allowing a penny-ante game to occur in his or her dwelling.

Participating in the play of penny-ante games is not a crime.[32] However, the following restrictions apply: [33]

- The game must be conducted in a dwelling.
- A person may not receive any consideration or commission for allowing a penny-ante game to occur in his or her dwelling.

---

[27] *See supra*, note 22.

[28] *State v. Cyphers*, No. 2002 CF 5480 (Fla. 12th Cir. Ct. Feb. 18, 2004). The court held that the statutes do not provide adequate notice of the conduct it prohibits when measured by common understanding and practice and that s. 849.161(1)(a)1., F.S., does not adequately inform the defendant how much skill a game must have to qualify for the exemption provided in the section.

[29] Cindy F. Crawford, November 5, 2003, "Moratorium on Arcades OK with Council," *Daytona Beach News-Journal*, 1A, where the Edgewater City Council established a six-month moratorium on occupational licenses for adult arcades. The City of Lauderdale Lakes adopted a 60-day moratorium. Toni Marshall, March 19, 2004, "Lakes Nixes New Adult Arcade Centers, 60-Day Moratorium in Place Until City Can Pass New Rules, *Sun-Sentinel*, Community News1

[30] Millie Lapidario, March 20. 2004, "City Sets Adult Arcade Regulations," *Daytona Beach News-Journal,*3A

[31] Section 849.085(2)(a), F.S.

[32] Section 849.085(1), F.S.

[33] Section 849.085(3), F.S.

- A person may not directly or indirectly charge admission or any other fee for participation in the game.
- A person may not solicit participants by means of advertising in any form, advertise the time or place of any penny-ante game, or advertise the fact that the solicitor will be a participant in any penny-ante game.
- A penny-ante game may not be conducted in which any participant is under 18 years of age.

A dwelling means residential premises owned or rented by a participant in a penny-ante game and occupied by such participant or the common elements or common areas of a condominium, cooperative, residential subdivision, or mobile home park of which a participant in a penny-ante game is a unit owner, or the facilities of an organization which is tax exempt under s. 501(c)(7) of the Internal Revenue Code.[34] The term dwelling also includes a college dormitory room or the common recreational area of a college dormitory or a publicly owned community center owned by a municipality or county.

III. Effect of Proposed Changes:

Section 1. Definitions.
The bill amends the definition of "full schedule of live racing or games" under s. 550.002, F.S., to mean that for a greyhound or harness permitholder, the conduct of a combination of at least 100 live evening or matinee performances during the preceding year; for a quarter or thoroughbred horserace permitholder or a jai alai permitholder, the terms mean the conduct of at least 40 live regular wagering performances during the preceding year. A live performance must consist of no fewer than eight races or games conducted live for each of a minimum of three performances each week a the permitholder's licensed facility under a single admission charge.

Section 2. License application; periods of operation; bond, conversion of permit.
The bill deletes parts of s. 550.01215, F.S., that requirement for a thoroughbred permitholder to include on a license application the dates and period for receiving or rebroadcsting out-of state races or conducting performances

It deletes the provision for conversion of a jai alai permit to a greyhound permit.

Section 3. Application for permit to conduct pari-mutuel wagering
The bill amends s. 550.054(2) to provide that an application for permit may not be considered nor issued by the division or be voted upon in any county, to conduct horseraces, harness horse races , or dograces at a location within 100 miles of an existing pari-mutuel facility, or for jai alai within 50 miles of an existing pari-mutuel facility, *unless all active permitholders within the county in which the new permit is to be located agree to issuance of the new permit.*

Section 4. Payment of daily license fee and taxes

[34] These organizations are clubs organized for pleasure, recreation, and other nonprofitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder.

The bill amends s. 550.0951, F.S., to provide that pari-mutuel wagering at horsetracks, dog racetracks, and jai alai frontons in this state is an important business enterprise, and taxes derived therefrom constitute a part of the tax structure that funds operation of the state. Horserace, greyhound, and jai alai permitholders should pay their fair share of these taxes to the state. These business interests should not be taxed to such an extent as to cause any permitholder that is operated under sound business principles to be forced out of business. Due to the need to protect the public health, safety, and welfare, the gaming laws of the state provide for pari-mutuel permitholders to be highly regulated and taxed. The state recognizes that there exists identifiable differences between horserace permitholders, greyhound permitholders, and jai alai permitholders based upon their ability to operate under such regulation and tax system.

The bill deletes provisions regarding:

- the daily license fee for jai alai
- the provisions relating to the tax exemption of $360,000 or $500,000 for greyhound permitholders in s. 550.0951(1)(a), F.S. and tax credits; and
- the admission tax; and
- the tax on handle for jai alai.

It amends the section to provide that the tax on handle for intertrack wagering is 1.5 percent of the handle if the guest rack is located within the market area of the host dog track. It provides that for permitholders located as specified in s. 550.615(2), F.S.,[35] and conducting intertrack wagering on rebroadcasts of simulcast thoroughbred horseraces, the tax on handle is 1.0 percent of the handle, and the host thoroughbred permitholder shall retain 1.4 percent of the handle to be used for purses.

It provides that the tax on handle for intertrack wagering on rebroadcasts of simulcast harness horseraces is 1.5 percent of the handle. It deletes the provision that requires that the tax on handle be deposited into the Pari-mutuel Wagering Trust Fund.

It deletes the provisions that provided for the tax on handle for intertrack wagers accepted by any dog track located in the Jacksonville area of the state and tax breaks.

It creates a new provision for a jai alai annual license fee that provides that a licensed jai alai permitholder may not be liable for any other fees or taxes imposed by ch. 550, F.S., for the conduct of pari-mutuel wagering and shall instead pay an annual license fee of $350,000 for the privilege of holding and operating a permit to conduct pari-mutuel wagering authorized under ch. 550, F.S. The fee is payable within 5 days after the commencement of the jail alai permitholder's live meet. A jai alai permitholder may use any credits accrued under s. 550.1646 and any unused tax credits from the operation of s. 550.09511, F.S., as an offset to the annual license fee; however, a jai alai permitholder conducting fewer than 100 live performances in any calendar year may not use these credits to pay to the state less than the aggregate amount of pari-mutuel taxes and fees which the permitholder paid to the state during the most recent prior calendar year

[35] Section 550.615(2), F.S., provides that any track or fronton licensed under ch. 550, F.S. which in the preceding year conducted a full schedule of live racing is qualified to, at any time, receive broadcasts of any class of pari-mutuel race or game and accept wagers on such races or games conducted by any class of permitholders licensed under the chapter.

in which the jai alai permitholder conducted at least 100 live performances. A jai alai permitholder shall remit monthly a report under oath to the division showing the total of the pari-mutuel wagering activities for the preceding month and such other information as is prescribed by the division.

It creates a new provision for minimum payments for greyhound and horsetracks that provides that in the event a greyhound or horserace permitholder at the conclusion of its racing meet has not paid over the preceding 12 months at least $350,000 in the aggregate of daily license fees and tax on handle, the permitholder shall pay to the division the difference between the aggregate taxes and daily license fees paid and $350,000.

It amends the section on payment and disposition of fees and taxes to provide that the daily license fees and taxes on handle shall be remitted to the division by 3 p.m. of the fifth day of each calendar month for taxes and fees imposed and collected for the preceding calendar month.

Section 5. Greyhound dogracing taxes; purse requirements.
The bill deletes s. 550.09514(1), F.S., that provides for the tax on handle for greyhound racing.

Section 6. Horseracing; minimum purse requirement, Florida breeders' and owners' awards.
The bill requires thoroughbred permitholders to withhold one percent on exotic wagering for owners' awards and two percent for overnight purses. For three years after the effective date of the bill, the changes in this section apply.

The bill deletes the provision in s. 550.2625(2)(a), F.S., that provides that no permitholder may withhold in excess of 20 percent from the handle without withholding the amounts required in the subsection.

It amends s. 550.02625(3), F.S. to replace the words "intertrack race and intertrack simulcast" with "broadcast" and provides that each horseracing permitholder conducting any thoroughbred race under ch. 550, F.S., including *via receipt of a broadcast* shall pay a sum equal to 0.955 percent on all pari-mutuel pools conducted during any such race for the payment of breeders', stallion, or special racing awards as authorized in ch. 550, F.S.

Section 7. Breeders' Cup Meet; pools authorized; conflicts; taxes; credits; transmission of races; rules application.
Conforms cross references to the repeal of s. 550.09511, F.S.

Section 8. Jai Alai Tournament of Champions Meet.
Conforms cross references to the repeal of s. 550.09511, F.S.

Section 9. Transmission of racing and jai alai information; commingling of pari-mutuel pools.
The bill amends s. 550.3551, F.S., to provide that as a condition precedent to receiving broadcasts from locations outside the state, an operating thoroughbred permitholder shall provide its consent to all licensed thoroughbred permitholders within its market area to receive broadcasts of horse races conducted live at its facility and from locations outside the state.

The bill creates a provision that provides that notwithstanding any contrary provision of ch. 550, F.S., a licensed thoroughbred permitholder may, at any time, on a day when the permitholder conducts live thoroughbred racing at its pari-mutuel facility, offer to patrons at its pari-mutuel facility wagering on broadcasts of horseraces conducted at other horse racetracks located outside the state which provides for year-round simulcasting at thoroughbred tracks. If the permitholder conducted at least 80 days of live thoroughbred racing at its pari-mutuel facility during the preceding state fiscal year, the permitholder may also, at any time, on a day when the permitholder does not conduct live thoroughbred racing at its pari-mutuel facility offer to patrons at the facility wagering on broadcasts of horseraces conducted at other horse racetracks located outside the state. If the permitholder conducted fewer than 80 days of live racing at its facility during the preceding state fiscal year, it may at any time, on a day when it is not conducting live racing, offer patrons wagering on broadcasts of thoroughbred horseraces conducted at an out of state locations but only if the permitholder, the Florida Thoroughbred Breeders' Association, and the association representing a majority of the thoroughbred racehorse owner and trainers at the facility enter into a prior written agreement on file with the division allowing receipt of such broadcast.

It also provides that from wagers accepted by a thoroughbred permitholder outside of its current race meet, 1.9 percent of the handle shall be paid monthly for purses to the thoroughbred permitholder within its market area which is conducting live races. If there are no operating thoroughbred permitholder within its market area, the purse money shall be distributed equally to any thoroughbred permitholders conducting live racing.

It creates a provision that provides that a thoroughbred permitholder that offers its patrons broadcasts of thoroughbred horseraces located outside the state during its current racing meet shall pay into its purse account for use as purses 50 percent of the net proceeds retained by the thoroughbred permitholder on the wagers after payment of any fees to the out-of-state thoroughbred track, amounts for awards, and taxes and other sums required by ch. 550, F.S.

It provides that nothing in this chapter shall be construed to prevent a licensed horserace permitholder from receiving and accepting wagers on broadcasts of horseraces outside of Florida.

Section 10. Lease of pari-mutuel facilities by pari-mutuel permitholders.
It creates a new subsection that contains the provisions of s. 550.334(3), F.S., regarding leases of a licensed track to quarterhorse permitholders.

Section 11. Intertrack wagering
It amends s. 550.615(6), F.S., to provide that a harness permitholder may not accept intertrack wagers from any greyhound permitholder or, except as authorized by s. 550.6305(9)(g)2., from any thoroughbred permitholder in any area of the state where there are three or more horserace permitholders within 25 miles of each other. (Dade and Broward counties)

It creates a subsection that provides that a permitholder may engage in intertrack wagering with any other licensed permitholder to which it is affiliated by virtue of common ownership and shall

pay the tax on handle as if the intertrack wager were placed on the live race or game conducted at the affiliated host track.

It deletes restrictions on intertrack wagering between permitholders other than harness permitholders.

Section 12. Intertrack wagering; guest track payments; accounting rules.
The bill deletes s. 550.6305 (1)(a) and (b), F.S., regarding guest track payment requirements for thoroughbred permitholders. It establishes a guest track rate of three percent for thoroughbred intertrack wagering in Dade and Broward counties.

It creates a subsection that provides that a permitholder as specified s. 550.615(8), F.S., may accept wagers on rebroadcasts of out-of state thoroughbred horse races from an in-state thoroughbred permitholder and shall not be subject to provisions of paragraph (b) of the section regarding distribution of net proceeds for out of state broadcasts, if the thoroughbred permitholder is located outside of its market are and both conducting live races and accepting wagers on out-of-state horseraces. Fifty percent of the net proceeds go to the guest permitholder, the remaining 21.5 percent goes to the host facility and 28.5 percent shall be paid by the host facility as purses at the host facility. It provides that a thoroughbred permitholder must only be required to rebroadcast outside its market area during its live meet or within its market area after live racing is completed or 6 p.m. which ever is later.

Section 13. Conditions on horseracing; Florida breds; additional breed racing.
The bill creates a new section that contains provisions already provided for in ss. 550.5251(5)(a), 550.3355, and 550.375(5), F.S., regarding Florida-bred preferences, and summer quarter horse racing at a harness track.

Section 14. Conversion of a quarter horse permit to a thoroughbred permit.
The bill creates a section to provide for conversion of a quarter horse permit to a thoroughbred permit in any county where there are only two-pari-mutuel permits, one for jai alai and one for quarter horse racing (Ocala) provided at least $50 million is invested in the new thoroughbred track.

Section 15. Annual fee for dormant permits; revocation
The bill creates a provision for dormant permitholders to pay an annual fee of $350,000.

Section 16.
The bill repeals the following sections of ch. 550, F.S.:

- Section 550.0745, F.S., that provides for conversion of a summer jai alai permit in Dade and Broward counties;
- Section 550.09511, 550.09512, 550.09515, and 550.1625, F.S., that provides for the taxes for the different permitholders;
- Section 550.3355, F.S., that provides for summer quarter horse racing at a harness track. This provision is relocated in s.13 of the bill.
- Section 550.334, F.S., that provides for quarter horse racing. Subsection (3) is retained in s. 10 of the bill.

- Section 550.375, F.S., that provides for operation of harness tracks. However, it is partially retained in s. 13 of the bill.
- Section 550.5251, F.S., that provides for thoroughbred racing. Subsection (5)(a) is retained in s. 13 of the bill.
- Section 550.71, F.S., that provides that if the provisions of any section of the act are held to be invalid or inoperative, the remaining provisions of the act are deemed to be void and of no effect.

Section 17
The bill creates a provision that allows the division to certify the expenditure by a pari-mutuel permitholder and its affiliated companies of $100 million on capital improvements to its racing facility, s. 550.5251, F.S., is repealed and s. 2 of the act shall become law.

Section 18.
The bill creates a provision that will allow Hialeah Park to keep its permit and Gulfstream Park to be excused from discipline for violations of s. 550.615, F.S. by the division.

Section 19.
The bill amends Section 849.161(1)(a)1., F.S., to provide that at arcade amusement centers, the amusement games or machines may be games or machines played by application of skill. The bill excludes slot machines or devices that have an element of chance or other unpredictable outcome that entitles the player to money, credit, allowance, or thing of value or additional chance or right to use the machine or device, or to receive any check, slug, token or memorandum entitling the holder to receive any money, credit, allowance or thing of value[36] from the games permitted at arcade amusement centers.

Tobacco products or coupons redeemable for cash, alcoholic beverages, or tobacco products are excluded from the type of merchandise a player is entitled to receive in exchange for the points or coupons the player receives after playing the amusement game at an arcade amusement center.

Merchandise or a prize awarded may not exceed a value of $10. All points or coupons received by a player may be exchanged for the specific product only at the same business location where the game or machine operated by the player is located points or coupons received by a player may not be exchanged for any gift certificate, mail order certificate, or similar conveyance that is redeemable at another business location or deliverable from a location other than where the arcade is located.

It provides that any applicant for a license to operate an arcade amusement center shall reveal all ownership interests, including but not limited to, any individual or corporate silent partner, whether or not the applicant is acting on behalf of a third party in making solicitation for license, the ownership of the games or machines if the owner is not the applicant, and a copy of any lease or purchase agreement relating to acquisition of the games or machines.

It provides that any applicant for a license to operate an arcade amusement center shall provide a list of the games or machines to be installed which shall include the name, model, serial number,

[36] Section 849.15, F.S.

and date of manufacture of each machine. If games or machines are added or exchanged subsequent to the opening of the business, the original list shall be supplemented to reflect these additions or exchanges, including ownership of the games or machines and a copy of any lease or purchase agreement relating to the acquisition of the games or machines.

It provides that prior to issuance of license of an amusement arcade center the licensing agency shall, at its option, have the right to inspect and operate the games or machines to determine if they comply with the provisions of the section. The licensing agency may designate a law enforcement agency or other expert to perform this inspection.

It provides that the operator of an arcade amusement center shall allow law enforcement officers or experts assisting law enforcement full and unfettered access to the business premises and the games and machines in order to inspect and test them to ensure compliance with the requirements of the section. This reasonable access shall occur during normal operating hours of the arcade amusement center.

It provides that the section is not applicable to a coin operated game manufactured only for bona fide amusement purposes, that is not an illegal slot machine, and is played solely by application of skill.

The bill creates s. 849.161(1)(c), F.S., to provide that nothing in the subsection shall be taken or construed to abrogate or limit the power of a local government to establish or amend the zoning map designation of a parcel or parcels of land or change the actual list of permitted, conditional, or prohibited uses within a zoning category and, with respect to arcade amusement centers, any local government may exercise such power as provided by law.

The bill creates s. 849.161(2), F.S., to provide that the legislative and governing body of a county or municipality shall have the power and authority to limit the number of hours of operation of arcade amusement centers and may also limit the number of machines allowed in such centers.

The bill creates s. 849.161(4), F.S., to provide that a game or machine that may be construed as a gambling device under state law, including video poker games or a game or device that resembles a gambling device as defined in ch. 24 of Title 15 U.S.C. under s. 1171, is prohibited at arcade amusement centers.

The bill creates s. 849.1615, F.S. that provides that nothing contained in the chapter shall be taken or construed as applicable to any retail dealer that operates as a truck stop, as defined in ch.336, F.S. and that operates a minimum of six functional diesel fuel pumps, having amusement games or machines which operate by means of the insertion of a coin or other currency and which by application of skill may entitle the person playing or operating the game or machine to receive points or coupons that may be exchanged for merchandise limited to noncash prizes, toys, novelties, and Florida Lottery products, excluding alcoholic beverages, provided the cost value of the merchandise or prize awarded in exchange for such points or coupons do not exceed 75 cents on any game played. All points or coupons received by a player may be exchanged for the specific product only at the same business location where the game or machine operated by the player is located. Points or coupons received by a player may not be exchanged for any gift certificate, mail order certificate, or similar conveyance that is redeemable at another business

location or deliverable from a location other than where the arcade is located. This section applies only to games and machines that are operated for the entertainment of the general public and tourists as bona fide amusement games or machines. This section does not apply to any slot machine. The section may not be construed to authorize video poker games or any other game or machine that may be construed as a gambling device under federal law.

Nonsubstantive conforming changes are made to correct a federal statutory citation from 24 U.S.C. s. 1171 to chapter 24 of Title 15 U.S.C. under s. 1171 in s. 849.161(1)(a)2. and (b), F.S. The bill deletes s. 849.161(1)(a)2., F.S.

Section 21. Certain penny ante games not crimes; restrictions.
Section 849.085(3)(d), F.S., is amended to provide an exemption to the prohibition on advertising the time and place of a penny-ante game by allowing the posting of a notice at the dwelling or distributing notice to residents or member of the entity owning the dwelling. The proponents of this bill maintain that this will allow the residents of these dwellings to advertise upcoming penny-ante games in flyers or newsletters.

Section 22.
The bill will take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Section 17 of the bill may constitute an unconstitutional delegation of legislative authority. An invalid delegation of authority violates the principal of separation of powers in Art. II, s. 3, Fla. Const. The Florida Supreme Court has held that absent constitutional authority to the contrary, the Legislature is constitutionally prohibited from delegating its legislative power to others.[37] This provision requires the repeal of a statute upon certification by the division without further action by the Legislature.

[37] Gallagher v. Motors Insurance Corp., 605 So.2d 62 (Fla. 1992)

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Business and Professional Regulation is currently preparing an analysis of the fiscal impact of this bill.

VI. Technical Deficiencies:

Section 17 of the bill provides that upon certain conditions s. 550.5251, F.S., is repealed and s. 2 of the act shall become law. However, s. 550.5251, F.S., is repealed in s. 16, and s. 2 is amended without a separate effective date.

VII. Related Issues:

None.

VIII. Amendments:

None.

2

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 2060

SPONSOR: Senator Smith

SUBJECT: Non-Quota Alcoholic Beverage License

DATE: April 13, 2004 REVISED: _____ _____ _____ _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi MO	Imhof BI	RI	
2.			FT	
3.			AGG	
4.			AP	
5.			RC	
6.				

I. Summary:

The bill provides for an alcoholic beverage license for a sporting and recreational complex that has at least 10,000 acres of land, indoor sleeping facility with at least 12 rooms, a restaurant that seats at least 25 persons, and has been in continuous existence for at least two years. The license would be granted upon the payment of appropriate fees, and would not be subject to any quota or limitation.

The bill provides that the enclosed area of the complex must be considered the licensed premises, and that the entity would be treated as a vendor licensed to sell alcoholic beverages by the drink.

The bill provides that, notwithstanding any provision of law to the contrary, the serving hours of the complex shall be from 5 p.m. until sunrise.

This bill substantially amends section 565.02, Florida Statutes.

II. Present Situation:

The Division of Alcoholic Beverages and Tobacco (division) of the Department of Business and Professional Regulation (department) is the agency authorized to enforce the provisions of the Beverage Law in chs. 561, 562, 563, 564, 565, 567, and 568, F.S.

Section 561.20, F.S., limits the number of licenses under s. 565.02(1)(b)-(f), F.S., that may be issued in a county to no more than one such license to each 7,500 residents within such county. Section 561.20(1), F.S., provides that regardless of the number of licenses issued before October 1, 2000, no license issued under s 565.02(1)(a)-(f), F.S., shall be issued so that the number of such licenses within a county exceeds one such license to each 7,500 residents within the county.

These limited alcoholic beverage licenses are known as quota licenses. New quota licenses are created and issued when there is an increase in the population of a county. The licenses can also be issued when a county initially changes from a county which does not permit the sale of intoxicating liquor to one that does permit their sale. The quota license is the only alcoholic beverage license that is limited in number; all other types of alcoholic beverages licenses are available without limitation. Applications for quota licenses can exceed the number of available licenses.

The number of residents is based upon the Florida Estimate of Population as published by the Bureau of Economic and Business Research at the University of Florida based on the last population estimate prepared pursuant to s. 186.901, F.S.[1] For 2003, there were 42 available licenses based on the increases in population.[2]

The Beverage Law provides for several other types of beverage licenses, including consumption off premises only, consumption on the premises of beer only and beer and wine only. Motels, hotels, restaurants, boats, clubs, and other locations have the ability to serve alcoholic beverages under certain license restrictions.[3]

License fees.

Section 565.02(1), F.S., sets forth the license fees for vendors who are permitted to sell any alcoholic beverages regardless of alcohol content. These licenses permit the sale for consumption on premises of beer, wine and liquor. Section 565.02(1)(b)-(f), F.S., establishes license fees for consumption on premises licenses that are based on the population of the county. These fees range from $1,820 for a license in a county with a population of more than 100,000 to $624 for a license in a county with a population of 25,000 or less.

Section 565.02(1)(g), F.S., establishes a fee in addition to the fees established in s. 565.02(1)(b)-(f), F.S., for any vendor operating a place of business where consumption on the premises is permitted and which has more than three separate rooms or enclosures in which permanent bars or counters are located from which alcoholic beverages are served for consumption on the licensed premises.

Section 565.02(4), F.S., establishes an annual license tax of $400 for persons associated together as a chartered or incorporated club. This subsection also provides a $50 fee to permit gulf clubs to sell to non-members for a limited eight consecutive days for one event a year.

---

[1] Section 186.901, F.S., provides that the population estimate of local governmental units shall be submitted annually to the Executive Office of the Governor as of April 1 of each year.

[2] These licenses were available in 30 counties. The most that were available were four in Hillsborough and Palm Beach Counties. Three were available in Dade County. Applications were accepted from August 18, 2003, through November 15, 2003.
See http://www.myflorida.com/dbpr/abt/licensing/quota_notice.shtml

[3] *See* http://www.state.fl.us/dbpr/abt/rules_statutes/license_types.pdf

Section 565.02, F.S., also provides license fees for other entities, including chartered horse or dog racetracks or jai alai frontons,[4] theme park complexes,[5] non-profit entities that manage or support a symphony orchestra,[6]

In addition to these fees, s. 561.19, F.S., provides a fee of $10,750 for each new liquor license that is issued subject to the limitation in s. 561.20(1), F.S.

III. Effect of Proposed Changes:

Section 1. The bill creates section 565.02(12), F.S., to provide that a sporting and recreational complex may obtain a license for on-premises consumption of alcoholic beverage licenses. The license would be granted upon the payment of appropriate fees, and would not be subject to any quota or limitation if the complex:

- comprises of at least 10 acres of land;
- has indoor sleeping facilities with at least 12 rooms;
- has a restaurant that seats at least 25 persons; and
- has been in continuous existence for at least two years.

The bill provides that the enclosed area of the complex must be considered the licensed premises, and that the entity would be treated as a vendor licensed to sell alcoholic beverages by the drink. The bill does not define the term "enclosed area." It is not clear whether the term "enclosed area" is limited to the buildings of the complex or whether the term encompasses the fenced, or otherwise enclosed, outdoor parameters of the complex.

The bill provides that, not withstanding any provision of law to the contrary, the serving hours of the complex shall be from 5 p.m. until sunrise.[7]

This bill would establish a new license classification for a sporting and recreational complex alcoholic beverage license. The bill amends s. 565.02, F.S., which establishes licensure fees for several alcoholic beverage license classification. However, the bill does not set the fee, it only refers to the payment of an "appropriate fee" for on premises consumption of alcoholic beverages. The appropriate fee may be one of the license fees set forth in s. 565.02(1), F.S., that are based upon the population of the county.

---

[4] 565.02(5), F.S.
[5] 565.02(6), F.S.
[6] 565.02(8), F.S.
[7] Section 562.14(1), F.S., provides that:

> [e]xcept as otherwise provided by county or municipal ordinance, no alcoholic beverages may be sold, consumed, served, or permitted to be served or consumed in any place holding a license under the division between the hours of midnight and 7 a.m. of the following day.

Section 562.14(2), F.S., exempts theme park complexes, as defined in s. 565.02(6), F.S., and entertainment/resort complexes, as defined in s. 561.01(18), F.S., from local ordinances regulating the hours of sale, service, and consumption of alcoholic beverages.

According to the department, the number of locations that could qualify for this license is indeterminate. However, the department estimates that this bill would provide a maximum of five additional licensees.

Section 2. This bill would take effect on July 1, 2004.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

An applicant for a license authorized by this bill would have to pay the appropriate fee, which range from $1,820 for a license in a county with a population of more than 100,000 to $625 for a license in a county with a population of 25,000 or less.

C. Government Sector Impact:

According to the department this bill would have a minimal fiscal impact. Based on its estimate of no more than five additional licensees and utilizing the median fee, the department estimates that the additional licenses would generate $6,500 in additional revenue.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

3

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 2666

SPONSOR: Senator Aronberg

SUBJECT: Landlords & Tenants

DATE: April 5, 2004 REVISED: 04/13/04

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cibula	Lang	JU	Fav/1 amendment
2.	Oxamendi MO	Imhof BI	RI	
3.				
4.				
5.				
6.				

I. Summary:

The bill clarifies that rental agreements with a specific duration may require liquidated damages to be paid by a tenant for failure to timely notify the landlord that the dwelling unit will be vacated at the end of the lease.

The bill requires a landlord to satisfy certain procedural requirements before the landlord may impose liquidated damages on a tenant who fails to timely notify the landlord that the dwelling unit will be vacated at the end of the rental agreement. Under the bill, a landlord must notify a tenant in writing of the obligations in the rental agreement to provide notice that the dwelling unit will be vacated at the end of the rental agreement. This notice must be provided to the tenant within 15 days before the date by which a notice of vacating the dwelling unit is due to the landlord. The notice must list all fees, penalties, and other charges that may be imposed for failing to timely notify the landlord that the dwelling unit will be vacated at the end of the rental agreement.

This bill substantially amends section 83.575, Florida Statutes.

II. Present Situation:

Florida's Landlord – Tenant Law

Part II of chapter 83, F.S., entitled "Florida Residential Landlord and Tenant Act" (act), governs the relationship between landlords and tenants in a residential lease agreement.[1] The provisions of the act specifically address the payment of rent,[2] duration of leases,[3] security deposits,[4] maintenance of the dwelling and premises,[5] and termination of rental agreements.[6]

Section 83.67, F.S., prohibits certain acts by a landlord in a residential lease. Specifically, the following acts are prohibited:

- terminating or interrupting any utility service furnished to the tenant;
- denying a tenant reasonable access to the dwelling, e.g., changing the locks;
- discriminating against a servicemember[7] in offering the dwelling for rent or in any of the terms in the rental agreement; and
- removing outside doors, locks, roof, walls, windows, or removing the tenants' personal property unless taken pursuant to surrender, abandonment or a lawful eviction.

A landlord who violates any of these provisions is liable for actual and consequential damages or three months' rent, which ever is greater. The landlord is also liable for costs and attorney's fees.[8]

Section 83.575, F.S., provides that a rental agreement with a specific duration may contain a provision requiring the tenant to notify the landlord before vacating the premises at the end of the agreement.[9] The rental agreement may not require more than 60 days notice before vacating the premises.[10]

Section 83.575(2), F.S., provides that the rental agreement may provide that the tenant may be liable for liquidated damages if the tenant fails to give the required notice before vacating the premises at the end of the rental agreement. The liquidated damages are determined as specified in the rental agreement.[11] Additionally, the section provides that if the tenant remains in the rental unit after the termination of the rental agreement with the landlord's permission in a

[1] This part applies to the rental of a "dwelling unit" which is defined as a structure or part of a structure rented for use as a home, residence or sleeping place. It also includes mobile homes rented by a tenant. *See* s. 83.43, F.S.
[2] *See* s. 83.46, F.S.
[3] *Id.*
[4] *See* s. 83.49, F.S.
[5] *See* s. 83.51 and s. 83.52, F.S.
[6] *See* s. 83.56, F.S.
[7] As enacted by s. 4, ch. 2003-72, L.O.F.. The enactment of subsection (3) by s. 2, ch. 2003-30, L.O.F. used "member of the United States Armed Forces" instead of "servicemember."
[8] *See* s. 83.67(5), F.S.
[9] *See* s. 83.575(1), F.S.
[10] *Id.*
[11] *See* s. 83.575(2), F.S.

month to month tenancy and fails to give 15 days notice before vacating the dwelling unit, the tenant is liable to the landlord for one month's rent.[12]

It has been reported that s. 83.575, F.S., may be abused by landlords who employ predatory practices to impose and collect fees from tenants.[13] The section currently allows for a landlord to collect liquidated damages from a tenant if the tenant fails to give notice before vacating the premises when notice is required by the rental agreement.[14]

III. Effect of Proposed Changes:

The bill clarifies that the rental agreements under which liquidated damages may be imposed on a tenant who fails to timely notify the landlord that the dwelling unit will be vacated at the end of the rental agreement are those agreements with a specific duration.

The bill requires a landlord to satisfy certain procedural requirements before the landlord may impose liquidated damages on a tenant who fails to timely notify the landlord that the dwelling unit will be vacated at the end of the rental agreement. Under the bill, a landlord must notify a tenant in writing of the obligations in the rental agreement to provide notice that the dwelling unit will be vacated at the end of the rental agreement. This notice must be provided to the tenant within 15 days before the date by which a notice of vacating the dwelling unit is due to the landlord and list all fees, penalties, and other charges that may be imposed for failing to timely notify the landlord that the dwelling unit will be vacated at the end of the rental agreement.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

---

[12] *See* s. 83.575(3), F.S.
[13] *See* "Well-heeled landlords have a new weapon." *The Sun-Sentinel*, Douglas C. Lyons, March 6, 2004.
[14] *See* s. 83.575(2), F.S.

B. Private Sector Impact:

This bill could have a negative fiscal impact on owners/operators of rental properties because it establishes a duty to provide written notice to the tenant of the tenants' obligations. To the extent that the owners/operators fail to meet the notice requirements of this bill, they may not be able to recover liquidated damages from tenants who move at the end of the rental agreement. However, the fiscal impact of this bill on owners/operators of rental properties is indeterminate because it is unknown how many of these parties are affected and what amounts are stated as liquidated damages in such rental agreements.

This bill could have a positive fiscal impact on tenants because they will receive a written notice of their obligations before any liquidated damages could potentially be assessed against them.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Judiciary:
This amendment provides that the written notice shall list other charges to the tenant instead of to the rental agreement.

Bill No. SB 2666

Amendment No. 1 201192

CHAMBER ACTION

Senate House

The Committee on Judiciary recommended the following amendment:

Senate Amendment

On page 1, line 26, delete the words, "rental agreement"

and insert: tenant

4

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/SB 544

SPONSOR: Governmental Oversight and Productivity Committee, Comprehensive Planning Committee and Senator Bennett

SUBJECT: Construction Services

DATE: April 13, 2004 REVISED: _____ _____ _____ _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cooper	Yeatman	CP	Favorable/CS
2.	White	Wilson	GO	Favorable/CS
3.	Cibula	Lang	JU	Fav/1 amendment
4.	Sumner	Imhof	RI	
5.				
6.				

I. Summary:

The bill renames the Florida Prompt Payment Act as the Local Government Prompt Payment Act and creates a new Florida Prompt Payment Act. The bill amends provisions of law providing for timeframes in which payments must be made from state and local governments to contractors and timeframes in which payments must be made from contractors to subcontractors. Additionally, the bill specifies funds that may be retained by state and local governments in progress payments to contractors and subcontractors to ensure that construction projects are completed.

This bill amends the following sections of the Florida Statutes: 95.11, 218.70, 218.72, 218.735, 255.05, and 255.071.

This bill creates the following sections of the Florida Statutes: ss. 255.0705, 255.072, 255.073, 255.074, 255.075, 255.076, 255.077, 255.078, and 725.09.

II. Present Situation:

Prompt Payment of Vendors by State Agencies

Section 215.422, F.S., addresses prompt payment of vendors by state agencies and the judicial branch. Vouchers authorizing payment of an invoice must be filed with the Comptroller not later than 20 days after receipt of the invoice. The Comptroller is required to issue a warrant in payment of the invoice, not later than 10 days after filing the voucher. Partial payments to contractors are authorized.

Section 215.422(3)(b), F.S., specifies that disputes over payments between the state agency and vendors are to be resolved in accordance with rules developed and adopted by the Chief Justice for the judicial branch, and rules adopted by the Department of Financial Services or in a formal administrative proceeding before an administrative law judge of the Division of Administrative Hearings for state agencies.

Section 255.071, F.S., addresses disputes between contractors and subcontractors and suppliers for public works projects. When the contractor receives payments from the state or "any county, city, or political subdivision of the state, or other public authority..." for the construction of a public building, they are required to pay, in accordance with the contract terms, the undisputed contract obligations for labor, services, or materials provided for the project. If the contractor fails to pay these undisputed obligations to the subcontractor or supplier within 30 days of the required payment date, the subcontractor or supplier is entitled to the procedures and remedies provided in subsections (3) and (4).

Florida Prompt Payment Act

Part VII of chapter 218, F.S., known as the "Florida Prompt Payment Act," was enacted in 1989 to provide for prompt payments by local governmental entities to private vendors. Section 218.72.(2), F.S., defines the term local governmental entity to mean, "a county or municipal government, school board, school district, authority, special taxing district, other political subdivision, or any office, board, bureau, commission, department, branch, division, or institution thereof or any project supported by county or municipal funds." The act does not apply to community colleges.

Section 218.73, F.S., provides that payments for non-construction services by a local governmental entity must be calculated from the date on which a proper invoice is received by the chief disbursement officer of the local governmental entity after approval by the governing body, if required; or if a proper invoice is not received by the local governmental entity, the latter date of:

- On which delivery of personal property is accepted by the local governmental entity;
- On which services are completed;
- On which the rental period begins; or
- On which the local governmental entity and vendor agree in a contract that provides dates relative to payment periods.

Section 218.735, F.S., specifies the due-dates for payment of construction services. Subsection (5) requires that if a local governmental entity disputes a portion of a payment request or an invoice, the undisputed portion must be paid timely, in accordance with the requirements of subsection (1). Subsection (6) requires that when a contractor receives payment from a local governmental entity for labor, services, or materials furnished by subcontractors and suppliers hired by the contractor, the contractor must remit payment due to those subcontractors and suppliers within 15 days after the contractor's receipt of payment. Similarly, when a subcontractor receives payment from a contractor for labor, services, or materials furnished by subcontractors and suppliers hired by the subcontractor, the subcontractor must remit payment due to those subcontractors and suppliers within 15 days after the subcontractor's receipt of payment.

Subsection (7) specifies that all payments due under this section and not made within the specified time shall bear interest at the rate of 1 percent per month, or the rate specified by contract, whichever is greater.

Section 218.74, F.S., requires each local governmental entity to establish procedures to mark each payment request or invoice as received on the date on which it is delivered to the local government.

Section 218.75, F.S., provides that no contract between a local government entity and a vendor[1] may prohibit the vendor from invoicing the local government entity for interest allowable under ch. 218, part VII, F.S.

Section 218.76, F.S., outlines a process for the resolution of disputes between local government entities and vendors over payment. In any case in which an improper payment request or invoice is submitted by a vendor, the local governmental entity has 10 days after the improper payment request or invoice is received to notify the vendor that the payment request or invoice is improper and indicate what corrective action on the part of the vendor is needed to make the payment request or invoice proper.

Subsection (2) governs disputes between a vendor and a local governmental entity over payment of a payment request or invoice. Each local governmental entity is required to establish a dispute resolution procedure to be followed in cases of such disputes. Such procedure must provide that proceedings to resolve the dispute be commenced not later than 45 days after the date on which the proper payment request or invoice was received by the local governmental entity and be concluded by final decision of the local governmental entity not later than 60 days after the date on which the proper payment request or invoice was received. Such procedures are not subject to ch. 120, F.S. If the dispute is resolved in favor of the local governmental entity, then interest charges begin to accrue 15 days after the local governmental entity's final decision. If the dispute is resolved in favor of the vendor, interest begins to accrue as of the original date the payment became due.

Subsection (3) provides that the prevailing party in a collection action under the prompt payment act is entitled to recover court costs and reasonable attorney's fees under certain circumstances.

Retainage on Construction Projects[2]

"Retainage" is a common construction contracting practice whereby a certain percentage of compensation is withheld by the project owner from the general contractor and, in turn, by the general contractor from subcontractors until the project is completed satisfactorily. Retainage is established by contract between the prime-builder and the entity contracting for the project. Proponents of this practice claim it is necessary as leverage to assure timely completion of construction projects. Opponents of retainage claim that payment procedures on large public projects can be lengthy and complex and that final payment to the subcontractors can be delayed for months when problems with one aspect of the project remain unresolved.

[1] "Vendor" is defined as a person who sells goods or services, sells or leases personal property, or leases real property to a local government entity. See s. 218.71(6), F.S.

[2] This information is taken from OPPAGA *Special Review: Inflexibility in Contracting and Retainage Practices Could Hurt Construction Industry,* Report No. 00-26, December 2000.

Florida's subcontractors, who claim that retainage often creates undue financial hardships, asked the 2000 Legislature to consider limiting the allowable percentage of compensation that could be retained. In response, the Legislature requested the Office of Program Policy Analysis and Government Accountability (OPPAGA) to evaluate retainage and other construction practices identified by subcontractors.

The OPPAGA determined that limiting retainage may have the harmful unintended side effect of thwarting the development of new business or retarding the growth of existing businesses. In addition, owners and prime contractors may use other means to minimize risk, which may be less favorable than retainage.

The OPPAGA found that the fiscal impact of retainage on subcontractors can be lessened through the payment of interest on their percentage of compensation that has been retained. Although the Legislature could require payment of interest by law, ideally, this would be negotiated as part of the contracting process. The OPPAGA suggested that consideration of such legislation should take into account the fiscal impact to the state of Florida and other units of government.

The OPPAGA also recommended the Department of Management Services identify and disseminate best construction practices that, if implemented, would facilitate final project completion and release of retainage.

Industry representatives report that Florida is one of only seven states that have no laws regulating retainage. Payment procedures on large public projects can be lengthy and complex, and in particular, final payment can be delayed for months for even one small problem that remains unresolved.

Bonds of Contractors on Public Buildings

In Florida, "surety insurance" is defined to include payment and performance bonds.[3] Such bonds are contracts in which a surety company, which is paid a premium by a principal, e.g., a general contractor, agrees to stand in the place of the principal in the event the principal defaults either as to performance of the contract or as to payment of its subcontractors/suppliers.[4]

Chapter 255, F.S., deals with public property and publicly owned buildings. Section 255.05, F.S., requires a payment and performance bond from any person who enters into a formal contract with the state or any local government, or other public authority, for the construction of a public building, for the prosecution and completion of a public work, or for repairs upon a public building or public work.

Section 255.05(2), F.S., provides procedures for subcontractors and suppliers to make claims against a payment bond. This section also provides an outline for a notice form, deadlines for action, and consequences for improper notice or failure to act within specified guidelines.

[3] Section 624.606(1), F.S.

[4] *Surety Bonds: A Basic User's Guide for Payment Bond Claimants and Obligees*, Construction Lawyer, Daniel Toomey and Tamara McNulty, Winter, 2002.

III. Effect of Proposed Changes:

The bill renames the Florida Prompt Payment Act as the Local Government Prompt Payment Act and creates a new Florida Prompt Payment Act. The bill amends provisions of law providing for timeframes in which payments must be made from state and local governments to contractors and timeframes in which payments must be made from contractors to subcontractors. Additionally, the bill specifies funds that may be retained by state and local governments in progress payments to contractors and subcontractors to ensure that construction projects are completed.

The provisions of the Local Government Prompt Payment Act and the Florida Prompt Payment Act provided in the bill are similar. However, the former applies to construction contracts funded by local governments and the latter applies to construction contracts funded by the state government.

Prompt Payment Acts

Payments to Subcontractors
Under both acts, the bill requires a contractor who receives payment from a governmental entity for labor, services, or materials furnished by subcontractors and suppliers hired by the contractor, to remit payment due to those subcontractors and suppliers within 10 days. However, the subcontractors have 7 days to pay their subcontractors and suppliers. The bill provides that when the state government makes a payment to a contractor for the benefit of subcontractors, interest accrues on late payments to the subcontractors at a rate of at least 1 percent per month.

Punch List
Under both acts, the bill provides that each contract for construction services between a government entity and a contractor to provide for the development and review of a "punch list," or list of items required to "render complete, satisfactory, and acceptable the construction services purchased . . . ." For construction projects costing less than $10 million, the list must be completed: (a) within 30 calendar days after reaching substantial completion as defined in the contract, or if not defined in the contract, upon reaching beneficial occupancy or use; or (b) within 30 calendar days, unless extended up to 60 days by contract, after reaching substantial completion as defined in the contract, or if not defined in the contract, upon reaching beneficial occupancy or use.

Payment of Retainage to Contractors
Notwithstanding omissions on a punch list, a contractor must fully complete the contract. Upon completion of all items specified in the punch list, a contractor may submit a request for the retainage. If a governmental entity fails to timely develop the required punch list, the contractor may submit a payment request for the appropriate amount of retainage. The governmental entity is not required to pay the requested retainage if the contractor has, in whole or part, failed to cooperate with the governmental entity in development of the list; failed to perform its contractual responsibilities, if any, with regard to the development of the list. In a good faith dispute relating to the list, a governmental entity is authorized to withhold up to 150 percent of the total costs to complete any incomplete items on the list.

Retainage Amounts

From the beginning of a construction project until 50 percent of the project has been completed, a governmental entity may not withhold as retainage more than 10 percent of each progress payment to the contractor. After reaching 50-percent completion, the governmental entity may withhold as retainage no more than 5 percent of future progress payments to the contractor. The term "50-percent completion" means as defined in the contract, or, if not defined in the contract, the point at which the governmental entity has expended 50 percent of the total cost of the construction services purchased as identified in the contract, plus all change orders and other additions or modifications as provided in the contract.

After reaching 50-percent completion, the contractor may submit a payment request for up to one-half of the retainage amount held by the governmental entity. The governmental entity must promptly pay the contractor, unless there is a "good-faith" dispute between the contractor and the governmental entity. If the governmental entity pays retainage to the contractor, the contractor must timely remit payment of such retainage to the appropriate subcontractors and suppliers. However, under specified conditions and with proper notice, the contractor may withhold more than 5 percent retainage from payments to its subcontractors.

Subcontractor Claims Against Payment Bond

Claims against a payment bond by a subcontractor to a sub-subcontractor must specify the portion of the claim for retainage. Additionally, claims may not be initiated in an action for the sole purpose of recovery of retainage against the contractor or against the surety providing a payment or performance bond until:

- The public entity has paid out that retainage to the contractor, and the time provided in s. 255.073(3), F.S., for payment of that retainage has expired;[5]
- The claimant has completed all contracted work and 70 days have passed since the public entity received the contractor's final payment request; or
- The claimant has made a written request to the contractor for the retainage, and the contractor has not responded, in writing, 10 days after receipt of the request.

If none of these conditions can be satisfied and, consequently, an action for recovery of retainage cannot be instituted within the 1-year limitation period, the limitation period is extended until 120 days after one of the conditions is satisfied.

Prohibited Contractual Provisions

The bill prohibits an entity from entering into a contract for the purchase of construction materials or services which conditions payment for such materials or services on the receipt of

[5] See section 7 of this bill. Proposed s. 255.073(3), F.S., requires that when a contractor receives payment from a public entity for labor, services, or materials furnished by subcontractors and suppliers hired by the contractor, the contractor must remit payment due to those subcontractors and suppliers within 10 days after the contractor's receipt of payment. Similarly, when a subcontractor receives payment from a contractor for labor, services, or materials furnished by subcontractors and suppliers hired by the subcontractor, the subcontractor must remit payment due to those subcontractors and suppliers within 7 days after the subcontractor's receipt of payment.

payment from any other entity. Furthermore, any such conditional payment provision is void as a violation of the public policy of this state.

Effective Date

The bill provides an effective date of October 1, 2004.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill may result in more timely payments to contractors and subcontractors who provide services or supplies in the construction of public projects.

C. Government Sector Impact:

This bill may require state and local governments to provide more timely payments to contractors and subcontractors who provide services or supplies in the construction of public projects.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Judiciary:
Eliminates the following entities from the definition of local governmental entity: district and separate unit of local government created or established pursuant to law. As a result, these entities are not governed by the Local Government Prompt Pay Act.

Bill No. CS for CS for SB 544

Amendment No. 1 730456

CHAMBER ACTION

Senate House

The Committee on Judiciary recommended the following amendment:

Senate Amendment

On page 2, lines 27-31, delete those lines

and insert:

(2) "Local governmental entity" means a county or municipal government, school board, school district, authority, special taxing district, other political subdivision, or any office, board,

Senate Committee On

REGULATED INDUSTRIES

Alex Diaz de la Portilla, Chair
Alfred "Al" Lawson, Jr., Vice Chair

Amendment Packet
Consideration of these amendments requires a 2/3 vote of members present

Monday, April 19, 2004
9:15 AM – 11:15 AM
110 SOB

(Please bring this packet to the committee meeting. Duplicate materials will not be available.)

SENATE AMENDMENT

Bill No. CS for CS for SB 2474

Amendment No. ___ 411290

CHAMBER ACTION

Senate | House

REGULATED INDUSTRIES COMMITTEE
DATE: 4/16/04
TIME: 2:51 p.m.

Consideration of this amendment requires a 2/3 vote of members present

Senator Haridopolos moved the following amendment:

Senate Amendment (with title amendment)

On page 54, between lines 14 and 15,

insert:

Section 20. Section 849.1611, Florida Statutes, is created to read:

849.1611 Children's Amusement Centers; when chapter inapplicable.--Nothing contained in this chapter shall be taken or construed as applicable to any children's amusement center having amusement games that operate by means of insertion of a coin or other currency or other token and that may entitle the person operating the game or machine to receive points or coupons that may be exchanged for merchandise limited to non-cash prizes, toys or novelties, excluding cash, alcoholic beverages, tobacco products, or coupons redeemable for cash, alcoholic beverages or tobacco products. For the purposes of this section, the term "children's amusement center" means a place of business that operates coin operated amusement games and machines in which

the majority of such games or machines are for the use of or operation by children under the age of 14 years and does not allow the use of video poker games or any other game or device classified as a gambling device in chapter 24 of 15 U.S.C. under s. 1171, which requires identification of each device by permanently affixing seriatim numbering and name, trade name, and date of manufacture under s. 1173, and registration with the United States Attorney General, unless excluded from applicability of the chapter under s. 1178.

========== T I T L E A M E N D M E N T ==========

And the title is amended as follows:

On page 5, line 8, after the semicolon

and insert:

creating s. 849.1611, F.S.; providing exception for amusement games located at children's amusement centers, providing definition;

SENATE AMENDMENT

Bill No. SB 2060

Amendment No. ___ 652016

CHAMBER ACTION

Senate | House

Consideration of this amendment requires a 2/3 vote of members present

REGULATED INDUSTRIES COMMITTEE
DATE: 4/16/04
TIME: 2:35 Pm

Senator Aronberg moved the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Present subsection (12) of section 565.02, Florida Statutes, is redesignated as subsection (13), and new subsections (12) and (14) are added to that section to read:

565.02 License fees; vendors; clubs; caterers; and others.--

(12) A sporting and recreational lodge complex may obtain, upon the payment of appropriate fees, a license for on-premises consumption of alcoholic beverages not subject to any quota or limitation if the complex:

(a) Comprises at least 10,000 acres of land.

(b) Has indoor sleeping facilities with at least 12 rooms.

(c) Has a restaurant that seats at least 25 persons.

(d) Has been in continuous existence for at least 2 years. The enclosed area within the complex shall be

considered the licensed premises upon the payment of the fee. Except as otherwise provided in this subsection, entities licensed under this subsection shall be treated as vendors licensed to sell alcoholic beverages by the drink and shall be subject to all the provisions relating to such vendors. However, notwithstanding any provision of law, such complex shall only sell or provide alcoholic beverages in a manner that is consistent with any local ordinance of a governing body having jurisdiction over the location of the complex.

(14) The division may adopt rules governing the designation process, criteria for qualification, and all other rules necessary for the effective enforcement and administration of this section.

Section 2. This act shall take effect July 1, 2004.

========== T I T L E A M E N D M E N T ==========

And the title is amended as follows:

Delete everything before the enacting clause

and insert:

A bill to be entitled

An act relating to alcoholic beverage licenses; amending s. 565.02, F.S.; authorizing the issuance of a non-quota license to certain sporting and recreational lodges; requiring that serving hours conform to certain local ordinances; providing rulemaking authority; providing an effective date.

SENATE AMENDMENT

Bill No. SB 2666

Amendment No. ___ 321514

CHAMBER ACTION

Senate | House

Regulated Industries

REGULATED INDUSTRIES COMMITTEE
DATE: 4/16/04
TIME: 4:25 p.m.

Consideration of this amendment requires a 2/3 vote of members present

Senator Aronberg moved the following amendment:

Senate Amendment

On page 1, line 26, delete that line

and insert: penalties, and other charges applicable to the tenant under this subsection.